

UNITED STATES DISTRICT COURT

Middle District of North Carolina

RICKY LYNN YATES,

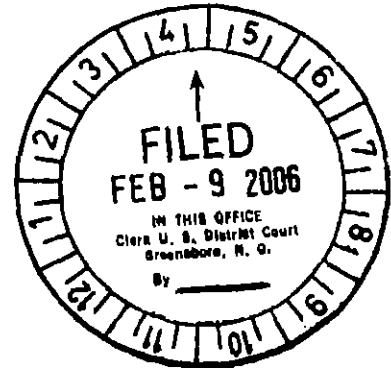
Petitioner,

v.

ERNEST SUTTON, Supt. of
Pasquotank Correctional Institution,

Respondent.

1:05CV381



O-R-D-E-R


On November 15, 2005, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed and notice was served on the parties in this action and a copy was given to the court.

Within the time limitation set forth in the statute, Petitioner objected to the Recommendation.¹

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court hereby adopts the Magistrate Judge's Recommendation.

¹ To the extent that Petitioner's objections and his affidavit contain a motion for appointment of counsel, the motion is DENIED.

IT IS HEREBY ORDERED AND ADJUDGED that Respondent's motion for summary judgment [Pleading no. 4] be **GRANTED**, and that this action be, and is hereby, dismissed with prejudice. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.


UNITED STATES DISTRICT JUDGE

DATE: February 9, 2006